

SENATE BILL 2533

By Ketron

AN ACT to amend Tennessee Code Annotated, Section 28-3-104; Title 29, Chapter 34, Part 2; Title 36; Section 39-11-703; Title 39, Chapter 13, Part 1; Title 39, Chapter 15, Part 4 and Title 40, relative to female genital mutilation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-110, is amended by deleting the section and substituting instead the following language:

(a) As used in this section:

(1) "Facilitate" means raising, soliciting, collecting, or providing material support or resources with knowledge that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of female genital mutilation or hindering the prosecution of female genital mutilation, or the concealing of female genital mutilation;

(2) "Female genital mutilation," "mutilate," or "mutilation" means:

(A) The excision, infibulation, or circumcision, in whole or in part, of the labia majora, labia minora, or clitoris of another;

(B) The narrowing of the vaginal opening through the creation of a covering seal formed by cutting and repositioning the inner or outer labia, with or without the removal of the clitoris; or

(C) Any harmful procedure to the female genitalia, including pricking, piercing, incising, scraping, or cauterizing;

(3) "Hindering the prosecution of female genital mutilation" includes, but is not limited to, the following:

(A) Knowingly harboring or concealing a person who commits or attempts to commit an act of female genital mutilation;

(B) Knowingly warning a person who commits or attempts to commit an act of female genital mutilation of impending discovery or arrest of that person; or

(C) Knowingly suppressing any physical evidence that might aid in the discovery or apprehension of a person who commits or attempts to commit an act of female genital mutilation; and

(4) "Material support or resources" means currency or other financial securities, financial services, instruments of value, lodging, training, false documentation or identification, medical equipment, computer equipment, software, facilities, personnel, transportation, and other physical assets.

(b) It is an offense for a person to:

(1) Knowingly mutilate or attempt to mutilate a person;

(2) Knowingly facilitate the mutilation of a person; or

(3) Knowingly transport or facilitate the transportation of a person for the purpose of mutilation.

(c) A violation of subsection (b) is a class D felony.

(d) It is not a defense to a violation of subsection (b) that a female genital mutilation procedure is:

(1) Required as a matter of belief, custom, or ritual;

(2) Consented to by a person on whom the procedure is performed; or

(3) Consented to by the parent or legal guardian of a minor on whom the procedure is performed.

(e) A procedure is not a violation of subsection (b) if it is:

(1) Necessary to the physical health of the person on whom it is performed, if performed by a licensed physician or licensed medical professional; or

(2) Performed on a person who is in labor or who has just given birth for medical purposes connected with that labor or birth by a licensed physician or a physician-in-training under the supervision of a licensed physician.

(f) In addition to the criminal penalty provided by this section, any physician, physician-in-training, certified nurse or midwife, or any other medical professional who performs, participates in, or facilitates a female genital mutilation procedure in violation of this section shall have the person's professional license or certification permanently revoked by the applicable licensing board.

(g)

(1) A victim of female genital mutilation may bring a civil action in a court of competent jurisdiction against the person or persons responsible for a violation under this section for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff is entitled to an award of reasonable attorney's fees and costs. Unsuccessful respondents shall be held jointly and severally liable for damages incurred.

(2) Except as provided by subdivision (g)(3), an action shall be filed within five (5) years of the offense.

(3) A victim who was under the age of eighteen (18) at the time of the offense may file an action any time before the victim reaches the age of twenty (20) or within five (5) years of the offense, whichever is later.

(4) If a criminal prosecution is pending pursuant to this section, the statute of limitations shall be suspended until a final judgment is rendered in that prosecution. A final judgment against the defendant shall preclude that person or persons from denying the facts established in that proceeding in a civil action brought pursuant to this section.

SECTION 2. Tennessee Code Annotated, Section 40-2-101, is amended by adding the following language as a new subsection:

(o)

(1) Except as provided by subdivision (o)(2), a person may be prosecuted, tried, and punished for any offense committed on or after July 1, 2018, that constitutes the offense of female genital mutilation under § 39-13-110 no later than five (5) years from the date of the offense.

(2) A person may be prosecuted, tried, and punished for any offense committed against a minor under the age of eighteen (18) on or after July 1, 2018, that constitutes the offense of female genital mutilation under § 39-13-110 by the later of:

(A) Five (5) years from the date of the offense; or

(B) Until the victim reaches twenty (20) years of age.

SECTION 3. Tennessee Code Annotated, Section 39-11-703(c), is amended by adding the following language as a new subdivision:

Any money or property, real or personal, used in connection with a violation of § 39-13-110 committed on or after July 1, 2018.

SECTION 4. Tennessee Code Annotated, Section 39-15-402(d), is amended by deleting the language "objects." and substituting instead the language "objects, and acts of female genital mutilation as defined in § 39-13-110."

SECTION 5. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to acts committed on or after that date.